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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

2011 MAR 28 P 12:24

ENTREPRENEUR MEDIA, INC.,
2445 McCabe Way, Suite 400
Irvine, California 92614

Plaintiff,

v.

E-ENTREPRENEUR-MAGAZINE.COM
& ENTREPRENEURMAGAZINE.ORG,
each an Internet Domain Name,

Registrant:
Innovalist Pte Ltd
100 Tras Street #16-01
Singapore, Singapore 079027

Defendant.

Civil Action No. 1:11-cv-00315-GBL-IDD
CLERK US DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

VERIFIED COMPLAINT FOR INJUNCTIVE RELIEF

Plaintiff Entrepreneur Media, Inc. ("Plaintiff" or "Entrepreneur Media") for its Complaint alleges the following in support of its *in rem* claim against the Internet Domain Names *e-entrepreneur-magazine.com* and *eentrepreneurmagazine.org* (the "Defendant Domain Names"):

NATURE OF THE ACTION

1. Plaintiff files this *in rem* action asserting a claim for cyberpiracy under the Anticybersquatting Consumer Protection Act ("ACPA"), 15 U.S.C. §§ 1125(d), *et seq.*
2. The Defendant Domain Names are confusingly similar to Plaintiff's world-famous ENTREPRENEUR® trademark and are being used by the registrant with a bad faith intent to profit from Plaintiff's substantial investment in the ENTREPRENEUR® mark.

3. In bringing this lawsuit, Plaintiff seeks a permanent injunction providing for the transfer of the Defendant Domain Names to Plaintiff Entrepreneur Media.

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction over this claim pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. This Court has *in rem* jurisdiction over the Defendant Domain Names pursuant to 15 U.S.C. § 1125(d)(2)(A)(ii)(I) because the Plaintiff cannot obtain *in personam* jurisdiction over the registrant of the Defendant Domain Names because the registrant is located outside of the United States and is not subject to personal jurisdiction in the United States. *In rem* jurisdiction is proper in this district pursuant to 15 U.S.C. § 1125(d)(2)(C)(i) because the domain name registries, VeriSign, Inc., 21355 Ridgetop Circle, Dulles, Virginia 20166 (“VeriSign”, the operator of the authoritative domain name registry for all .com domains) and .ORG, The Public Interest Registry, 1775 Wiehle Avenue, Suite 200, Reston, Virginia 20190 (“.ORG”, the operator of the authoritative domain name registry for all .org domains), are located in this district. Further, under 15 U.S.C. §1125(d)(2)(C)(ii), upon commencement of this case, documents sufficient to establish control and authority regarding the disposition of the registration of the Defendant Domain Names will be expeditiously deposited with the Court.

6. Venue is proper in this district under 28 U.S.C. § 1391(b)(2) and 15 U.S.C. §§ 1125(d)(2)(A) and (C) because the registries that registered or assigned the Defendant Domain Names are located in this district. Copies of the Whois records for each of the Defendant Domain Names as of March 28, 2011 are attached hereto as **Exhibit A**.

THE PARTIES

7. Entrepreneur Media is a California corporation with its principal place of business at 2445 McCabe Way, Suite 400, Irvine, California 92614.

8. The Defendant Domain Names are listed in each respective WHOIS record as registered to “Tom Koh, Innovalist Pte Ltd” with the address of 100 Tras Street #16-01, Singapore, Singapore 079027.

FACTUAL BACKGROUND ***Entrepreneur Media’s Trademark Rights***

9. Entrepreneur Media is a well-known publisher of magazines and business guides, including ENTREPRENEUR MAGAZINE® and other publications incorporating the ENTREPRENEUR® trademark in their titles. ENTREPRENEUR MAGAZINE® is published monthly with a current paid circulation, including both subscriptions and newsstand sales, of more than 500,000 in the United States. ENTREPRENEUR MAGAZINE® is also sold and currently distributed in over 100 foreign countries.

10. Beginning in 1978, Entrepreneur Media has continuously used its trademark ENTREPRENEUR® to identify its magazines, business guides, video and audio tapes, computer software programs, web pages, on-line services, other services in connection with conducting trade shows and educational seminars, advertising, membership, and other business services. Entrepreneur Media has prominently displayed the mark ENTREPRENEUR® on letterheads, promotional literature, media advertising, and in periodicals circulated throughout the United States.

11. In addition to the goods and services described above, Entrepreneur Media also maintains a number of websites, including www.entrepreneur.com (“Entrepreneur.com”), through which it disseminates editorial content and other information, as well as offers products

and services related or of interest to small and midsize businesses, business owners, and prospective business owners.

12. Entrepreneur Media owns all rights and interest to the ENTREPRENEUR® trademark for various goods and services in a number of International Classes including Classes 9, 16, 35, 38, and 41. Entrepreneur Media owns, *inter alia*, the following United States Trademark Registration Nos. for the ENTREPRENEUR® trademark: 1,453,968; 3,520,633; 2,502,032; and 2,263,883. These registrations are valid and subsisting and in full force and effect. True and correct copies of the registration certificates for the cited registrations are attached hereto as **Exhibit B**.

13. Additionally, Entrepreneur Media owns, *inter alia*, all rights and interest to the following United States Trademark Registration Nos. for marks incorporating the term ENTREPRENEUR for use in connection with online and/or Internet services: 3,470,064; 3,924,374; 3,519,022; 3,470,063; 3,266,532; 3,374,476; and 3,652,950. These registrations are valid and subsisting and in full force and effect. True and correct copies of the registration certificates for the cited registrations are attached hereto as **Exhibit C**.

14. Entrepreneur Media has continuously and extensively used, advertised, marketed, and promoted the ENTREPRENEUR® mark in the United States and many foreign countries in connection with its goods and services, including its magazine and other publications. Entrepreneur Media has spent millions of dollars and has expended significant effort in promoting its goods and services under the ENTREPRENEUR® mark through various means, including its Internet site, Entrepreneur.com. As a result of Entrepreneur Media's substantial investment in developing and promoting the ENTREPRENEUR® trademark, it has come to

identify and distinguish Entrepreneur Media's goods and services and represents enormous goodwill of great value belonging exclusively to Entrepreneur Media.

The Defendant Domain Names

15. The Defendant Domain Names are located at the following internet addresses:

<http://e-entrepreneur-magazine.com/> and <http://eentrepreneurmagazine.org/>.

16. The Defendant Domain Name e-entrepreneur-magazine.com was created on September 15, 2010. E-entrepreneur-magazine.com completely encompasses Entrepreneur Media's ENTREPRENEUR® trademark in its entirety preceded only by the letter "e" and a hyphen ("e-") and followed by another hyphen and the generic word "magazine" ("-magazine"), and is thus confusingly similar to the ENTREPRENEUR® trademark and to the Entrepreneur.com domain name owned by Entrepreneur Media. Use of the ENTREPRENEUR® trademark in the Defendant Domain Name e-entrepreneur-magazine.com is likely to cause confusion or mistake as to whether Entrepreneur Media is the source or sponsor of, is affiliated with, or endorses the Defendant Domain Name.

17. The Defendant Domain Name e-entrepreneur-magazine.com is used to display a website that features content such as a link to a video titled "The Young Entrepreneurs DVD," articles entitled "Entrepreneur Ideas: Best Business for the Future," "The Making of an Entrepreneur," "How Hard Can the World Be for Mom Entrepreneurs?," "Popular Entrepreneurial Ideas That Does [sic] Not Work," and other articles and content related to small businesses and start-up companies. Such content falsely suggests an affiliation and/or association with Entrepreneur Media and ENTREPRENEUR MAGAZINE®. As of March 28, 2011 the site is unavailable because the owner exceeded its size limitations. A true and correct copy of the cached home page of the Defendant Domain Name e-entrepreneur-magazine.com is attached hereto as **Exhibit D**.

18. The Defendant Domain Name e-entrepreneur-magazine.com's website also includes an article entitled "Entrepreneur Magazine: What It Has to Offer You" that discusses the ENTREPRENEUR® magazine. The article states "Entrepreneur Magazine is considered by many people to be the best resource for entrepreneurs out there. Whether you are still thinking about starting your own venture or trying to expand your already-established business, Entrepreneur Magazine is the best resource for you." A true and correct copy of the cached webpage offering the article titled "Entrepreneur Magazine: What It Has to Offer You" is attached hereto as **Exhibit E**.

19. A copyright notice is listed at the bottom of the pages on the Defendant Domain Name e-entrepreneur-magazine.com site that reads "Copyright © 2011 E-Entrepreneur Magazine."

20. The unauthorized use of the ENTREPRENEUR® mark in the Defendant Domain Name e-entrepreneur-magazine.com and throughout the e-entrepreneur-magazine.com website, in connection with content related to business strategies, small businesses and start-up businesses, is likely to cause confusion as to the source or sponsorship of the e-entrepreneur-magazine.com domain and the content offered on the e-entrepreneur-magazine.com website.

21. The Defendant Domain Name eentrepreneurmagazine.org was also created on September 15, 2010. Eentrepreneurmagazine.org completely encompasses Entrepreneur Media's ENTREPRENEUR® trademark in its entirety preceded only by the letter "e" and followed by the generic word "magazine," and is thus confusingly similar to the ENTREPRENEUR® trademark and to the Entrepreneur.com domain name owned by Entrepreneur Media. Use of the ENTREPRENEUR® trademark in the Defendant Domain Name

eentreprneurmagazine.org is likely to cause confusion or mistake as to whether Entrepreneur Media is the source or sponsor of, is affiliated with, or endorses the Defendant Domain Name.

22. The Defendant Domain Name eentreprneurmagazine.org is used to display a website that features content such as articles entitled “10 Character Traits of Successful Small Business Owners,” “Traits Of Entrepreneur Wall of Data » Wall of Data,” “Successful Entrepreneur,” “Why Successful Entrepreneurs Repeatedly Hit Their Mark | Franchise,” “Five Characteristics Of Mega Successful Company Managers,” and other articles and content related to small businesses and start-up companies. Such content falsely suggests an affiliation and/or association with Entrepreneur Media and ENTREPRENEUR MAGAZINE®. A true and correct copy of the home page of the Defendant Domain Name eentreprneurmagazine.org is attached hereto as **Exhibit F**. A copyright notice is listed at the bottom of the pages on the Defendant Domain Name eentreprneurmagazine.org site that reads “Copyright. All Rights Reserved.”

24. The unauthorized use of the ENTREPRENEUR® mark in the Defendant Domain Name eentreprneurmagazine.org and throughout the eentreprneurmagazine.org website, in connection with content related to business strategies, small businesses and start-up businesses, is likely to cause confusion as to the source or sponsorship of the eentreprneurmagazine.org domain and the content offered on the eentreprneurmagazine.org website.

25. The Defendant Domain Names were registered and used in bad faith in violation of the ACPA. The Defendant Domain Names divert consumers from Entrepreneur Media’s online sites, such as Entrepreneur.com and others, by creating a likelihood of confusion as to whether Entrepreneur Media is the source or sponsor of, is affiliated with, or endorses the Defendant Domain Names, their websites and content thereon. Such intent to create a likelihood of confusion is evidence of bad faith pursuant to 15 U.S.C. § 1125(d)(1)(B)(i)(V).

26. Registration of both the e-entrepreneur-magazine.com and the eentrepreneurmagazine.org domains by the same entity, Innovalist Pte Ltd, is further evidence of bad faith pursuant to 15 U.S.C. §1125(d)(1)(B)(i)(VIII), because Innovalist Pte Ltd knowingly registered multiple domain names which are identical or confusingly similar to Entrepreneur Media's distinctive ENTREPRENEUR® mark.

27. Entrepreneur Media has not authorized the use of the ENTREPRENEUR® trademark in connection with either of the Defendant Domain Names.

CLAIM FOR RELIEF
(Cyberpiracy)

28. Entrepreneur Media incorporates and realleges by reference Paragraphs 1 through 27, as though set forth in full herein.

29. The actions described above evidence bad faith intent to profit from the registration or use of the ENTREPRENEUR® trademark and confusingly similar variations thereof in the Defendant Domain Names.

30. Plaintiff is entitled to an order and injunction immediately transferring the Defendant Domain Names to Entrepreneur Media, Inc.

WHEREFORE, Plaintiff prays for judgment as follows:

- A. That VeriSign be ordered to transfer the registration of e-entrepreneur-magazine.com to Entrepreneur Media, Inc.; and
- B. That ORG be ordered to transfer the registration of eentrepreneurmagazine.org to Entrepreneur Media, Inc.;
- C. Awarding Entrepreneur Media, Inc. its reasonable costs and attorneys fees; and
- D. For such other relief that the Court may consider just and appropriate.

Dated: March 28, 2011

Respectfully submitted,



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Counsel for Plaintiff Entrepreneur Media, Inc.

VERIFICATION

Ronald L. Young, under penalty of perjury of the laws of the United States, declares:

That he is an officer of Entrepreneur Media, Inc. and directs Entrepreneur Media, Inc.'s trademark enforcement program; that he has read, is familiar with, and has personal knowledge of the contents of the foregoing Verified Complaint; and that the allegations thereof are true and correct. To the extent that matters are not within his personal knowledge, the facts stated therein have been assembled by authorized personnel, including counsel, and he is informed that the facts stated therein are true and correct.

Executed this 24TH day of March, 2011 in Irvine, California.



Ronald L. Young, Esq.